

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2605**

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**Introduced by Assembly Member Nazarian**

February 19, 2016

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An act to amend ~~Section 488 of the Public Utilities Code, relating to public utilities; Sections 65460.5 and 65923.8 of, and to repeal Section 66033 of, the Government Code, to amend Section 25199.7 of, and to repeal Section 25199.4 of, the Health and Safety Code, and to amend Section 25616 of the Public Resources Code, relating to state government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2605, as amended, Nazarian. ~~Public utilities; tariff schedules. State government: Office of Permit Assistance.~~

*Previously existing law established the Office of Permit Assistance within the Trade and Commerce Agency to, among other things, provide information to developers relating to the permit approval process. Under existing law, a state agency which is the lead agency for a development project is required to inform the applicant for a permit that the Office of Permit Assistance has been created for this purpose.*

*This bill would instead require a state agency that is a lead agency for a development project to inform the applicant for a permit that the Governor's Office of Business and Economic Development has been created for this purpose. The bill would also delete various obsolete provisions relating to the Office of Permit Assistance.*

*Existing law establishes procedures for a land use decision by a local agency concerning a specified hazardous waste facility project, as defined. Existing law requires the Office of Permit Assistance to take*

*specified actions with regard to land use decisions regarding a proposed hazardous waste facility project.*

*This bill would transfer these duties to the Department of Toxic Substances Control.*

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including common carriers, as defined, subject to the preemptive authority of Congress pursuant to the Commerce Clause of the United States Constitution. The Public Utilities Act requires the tariff schedules of carriers to be produced and made available for inspection upon the demand of any person.~~

~~This bill would make nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 65460.5 of the Government Code is  
2     amended to read:

3     65460.5. A city or county establishing a district and preparing  
4     a plan pursuant to this article ~~shall~~: *shall be eligible for available*  
5     *transportation funding.*

6     ~~(a) Be eligible for available transportation funding.~~

7     ~~(b) Receive assistance from the Office of Permit Assistance,~~  
8     ~~pursuant to Section 15399.53, in establishing an expedited permit~~  
9     ~~process pursuant to Section 15399.50, at the request of the city or~~  
10    ~~county.~~

11    SEC. 2. Section 65923.8 of the Government Code is amended  
12    to read:

13    65923.8. Any state agency which is the lead agency for a  
14    development project shall inform the applicant for a permit that  
15    ~~the Office of Permit Assistance~~ *Governor's Office of Business and*  
16    ~~Economic Development~~ *has been created in the Office of Planning*  
17    ~~and Research~~ to assist, and provide information to, developers  
18    relating to the permit approval process.

19    SEC. 3. Section 66033 of the Government Code is repealed.

20    ~~66033. (a) At the end of the mediation, the mediator shall file~~  
21    ~~a report with the Office of Permit Assistance, consistent with~~  
22    ~~Chapter 2 (commencing with Section 1115) of Division 9 of the~~  
23    ~~Evidence Code, containing each of the following:~~

24    ~~(1) The title of the action.~~

1     ~~(2) The names of the parties to the action.~~

2     ~~(3) An estimate of the costs avoided, if any, because the parties~~  
3 ~~used mediation instead of litigation to resolve their dispute.~~

4     ~~(b) The sole purpose of the report required by this section is the~~  
5 ~~collection of information needed by the office to prepare its report~~  
6 ~~to the Legislature pursuant to Section 66036.~~

7     ~~SEC. 4. Section 25199.4 of the Health and Safety Code is~~  
8 ~~repealed.~~

9     ~~25199.4. The Office of Permit Assistance in the Office of~~  
10 ~~Planning and Research shall, for any proposed hazardous waste~~  
11 ~~facility project, do all of the following:~~

12     ~~(a) Assist in identifying state and local permits required for the~~  
13 ~~proposed hazardous waste facility project.~~

14     ~~(b) Convene meetings or conferences, as necessary, prior to~~  
15 ~~the submittal of applications for permits to state and local agencies;~~  
16 ~~for the purpose of determining the scope of the hazardous waste~~  
17 ~~facility project, identifying the questions that state and local~~  
18 ~~agencies will have concerning the project, and determining~~  
19 ~~decisionmaking schedules.~~

20     ~~(c) Assist state and local agencies in consolidating public~~  
21 ~~meetings and hearings permitted or required by law or regulation~~  
22 ~~for approval of the permits for the project.~~

23     ~~(d) Encourage the joint review and processing of applications~~  
24 ~~for permits.~~

25     ~~(e) Work with the applicant and public agencies to ensure that~~  
26 ~~decisionmaking deadlines are met.~~

27     ~~(f) Call meetings or conferences to resolve questions or mediate~~  
28 ~~disputes arising from applications for a permit for a hazardous~~  
29 ~~waste facility project.~~

30     ~~SEC. 5. Section 25199.7 of the Health and Safety Code is~~  
31 ~~amended to read:~~

32     ~~25199.7. (a) At least 90 days before filing an application for~~  
33 ~~a land use decision for a specified hazardous waste facility project~~  
34 ~~with a local agency, the proponent shall file a notice of intent to~~  
35 ~~make the application with the Office of Permit Assistance in the~~  
36 ~~Office of Planning and Research Department of Toxic Substances~~  
37 ~~Control and with the applicable city or county. The notice of intent~~  
38 ~~shall specify the location to which the notice of intent is applicable~~  
39 ~~and shall contain a complete description of the nature, function,~~  
40 ~~and scope of the project. The Office of Permit Assistance~~

1 *Department of Toxic Substances Control* shall immediately notify  
2 affected state agencies of the notice of intent. The local agency  
3 shall publish a notice in a newspaper of general circulation in the  
4 area affected by the proposed project, shall post notices in the  
5 location where the proposed project is located, and shall notify,  
6 by a direct mailing, the owners of contiguous property, as shown  
7 in the latest equalized assessment roll. A notice of intent filed with  
8 a local agency shall be accompanied by a fee which shall be set  
9 by the local agency in an amount equal to the local agency's cost  
10 of processing the notice of intent and carrying out the notification  
11 requirements of this subdivision. A notice of intent is not  
12 transferable to a location other than the location specified in the  
13 notice and shall remain in effect for one year from the date it is  
14 filed with a local agency or until it is withdrawn by the proponent,  
15 whichever is earlier.

16 (b) A notice of intent is not effective and a proponent may not  
17 file an application for a land use decision for a specified hazardous  
18 waste facility project with a local agency unless the proponent has  
19 first complied with subdivision (a).

20 (c) Within 90 days after a notice of intent is filed with the ~~Office~~  
21 ~~of Permit Assistance~~ *Department of Toxic Substances Control*  
22 pursuant to subdivision (a), the ~~office~~ *department* shall convene a  
23 public meeting in the affected city or county to inform the public  
24 on the nature, function, and scope of the proposed specified  
25 hazardous waste facility project and the procedures that are required  
26 for approving applications for the project.

27 (d) The legislative body of the affected local agency shall  
28 appoint a seven member local assessment committee to advise it  
29 in considering an application for a land use decision for a specified  
30 hazardous waste facility project. The members of the local  
31 assessment committee may be appointed at any time after the notice  
32 of intent is filed with the local agency but shall be appointed not  
33 later than 30 days after the application for the land use decision is  
34 accepted as complete by the local agency. The local agency shall  
35 charge the project proponent a fee to cover the local agency's costs  
36 of establishing and convening the local assessment committee.  
37 The fee shall accompany the application for a land use decision.

38 (1) The membership of the committee shall be broadly  
39 constituted to reflect the makeup of the community, and shall  
40 include three representatives of the community at large, two

1 representatives of environmental or public interest groups, and  
2 two representatives of affected businesses and industries. Members  
3 of local assessment committees selected pursuant to this  
4 subdivision shall have no direct financial interest, as defined in  
5 Section 87103 of the Government Code, in the proposed specified  
6 hazardous waste facility project.

7 (2) The local assessment committee shall, as its primary  
8 function, advise the appointing legislative body of the affected  
9 local agency of the terms and conditions under which the proposed  
10 hazardous waste facility project may be acceptable to the  
11 community. To carry out this function, the local assessment  
12 committee shall do all of the following:

13 (A) Enter into a dialogue with the proponent for the proposed  
14 hazardous waste facility project to reach an understanding with  
15 the proponent on both of the following:

16 (i) The measures that should be taken by the proponent in  
17 connection with the operation of the proposed hazardous waste  
18 facility project to protect the public health, safety, and welfare,  
19 and the environment of the city or county.

20 (ii) The special benefits and remuneration the facility proponent  
21 will provide the city or county as compensation for the local costs  
22 associated with the operation of the facility.

23 (B) Represent generally, in meetings with the project proponent,  
24 the interests of the residents of the city or county and the interests  
25 of adjacent communities.

26 (C) Receive and expend any technical assistance grants made  
27 available pursuant to subdivision (g).

28 (D) Adopt rules and procedures which are necessary to perform  
29 its duties.

30 (E) Advise the legislative body of the city or county of the terms,  
31 provisions, and conditions for project approval which have been  
32 agreed upon by the committee and the proponent, and of any  
33 additional information which the committee deems appropriate.  
34 The legislative body of the city or county may use this advice for  
35 its independent consideration of the project.

36 (3) The legislative body of the affected jurisdiction shall provide  
37 staff resources to assist the local assessment committee in  
38 performing its duties.

39 (4) A local assessment committee established pursuant to this  
40 subdivision shall cease to exist after final administrative action by

1 state and local agencies has been taken on the permit applications  
2 for the project for which the committee was convened.

3 (e) A local agency shall notify the ~~Office of Permit Assistance~~  
4 *Department of Toxic Substances Control* within 10 days after an  
5 application for a land use decision for a specified hazardous waste  
6 facility project is accepted as complete by the local agency and,  
7 within 60 days after receiving this notice, the ~~Office of Permit~~  
8 ~~Assistance~~ *Department of Toxic Substances Control* shall convene  
9 a meeting of the lead and responsible agencies for the project, the  
10 proponent, the local assessment committee, and the interested  
11 public, for the purpose of determining the issues which concern  
12 the agencies that are required to approve the project and the issues  
13 which concern the public. The meeting shall take place in the  
14 jurisdiction where the application has been filed.

15 (f) Following the meeting required by subdivision (e), the  
16 proponent and the local assessment committee appointed pursuant  
17 to subdivision (d) shall meet and confer on the specified hazardous  
18 waste facility project proposal for the purpose of establishing the  
19 terms and conditions under which the project will be acceptable  
20 to the community.

21 (g) (1) If the local assessment committee finds that it requires  
22 assistance and independent advice to adequately review a proposed  
23 hazardous waste facility project, it may request technical assistance  
24 grants from the local agency to enable the committee to hire a  
25 consultant. The committee may use technical assistance grant funds  
26 made available to it to hire a consultant to do either, or both, of  
27 the following:

28 (A) Assist the committee in reviewing and evaluating the  
29 application for the project, the environmental documents prepared  
30 for the project pursuant to the California Environmental Quality  
31 Act (Division 13 (commencing with Section 21000) of the Public  
32 Resources Code) and any other documents, materials, and  
33 information that are required by a public agency in connection  
34 with the application for a land use decision or a permit.

35 (B) Advise the local assessment committee in its meetings and  
36 discussions with the facility proponent to seek agreement on the  
37 terms and conditions under which the project will be acceptable  
38 to the community.

39 (2) The local agency shall require the proponent of the proposed  
40 hazardous waste facility project to pay a fee equal to the amount

1 of any technical assistance grant provided the local assessment  
2 committee under paragraph (1). The funds received as a result of  
3 the imposition of the fee shall be used to make technical assistance  
4 grants exclusively for the purposes described in paragraph (1).

5 (3) The local agency shall deposit any fee imposed pursuant to  
6 paragraph (2) in an account created in the city or county treasury,  
7 maintain records of all expenditures from the account, and return  
8 any unused funds and accrued interest to the project proponent  
9 upon completion of the review of the proposed hazardous waste  
10 facility project.

11 ~~(h) If the local assessment committee and the proponent cannot~~  
12 ~~resolve any differences through the meetings, the Office of Permit~~  
13 ~~Assistance may assist in this resolution pursuant to Section~~  
14 ~~25199.4.~~

15 ~~(i)~~

16 (h) This section applies only to a specified hazardous waste  
17 facility project.

18 *SEC. 6. Section 25616 of the Public Resources Code is*  
19 *amended to read:*

20 25616. (a) It is the intent of the Legislature to encourage local  
21 agencies to expeditiously review permit applications to site energy  
22 projects, and to encourage energy project developers to consider  
23 all cost-effective and environmentally superior alternatives that  
24 achieve their project objectives.

25 (b) Subject to the availability of funds appropriated therefor,  
26 the commission shall provide technical assistance and grants-in-aid  
27 to assist local agencies to do either or both of the following:

28 (1) Site energy production or transmission projects which are  
29 not otherwise subject to the provisions of Chapter 6 (commencing  
30 with Section 25500).

31 (2) Integrate into their planning processes, and incorporate into  
32 their general plans, methods to achieve cost-effective energy  
33 efficiency.

34 (c) The commission shall provide assistance at the request of  
35 local agencies and shall coordinate that assistance with the  
36 assistance provided by the Department of Permit Assistance,  
37 created pursuant to Section 15399.50 of the Government Code.  
38 agencies.

1 (d) As used in this section, an energy project is any project  
2 designed to produce, convert, or transmit energy as one of its  
3 primary functions.

4 ~~SECTION 1. Section 488 of the Public Utilities Code is~~  
5 ~~amended to read:~~

6 ~~488. (a) Subject to any rules the commission may prescribe,~~  
7 ~~the schedules of carriers shall be produced and made available for~~  
8 ~~inspection upon the demand of any person. The form of a schedule~~  
9 ~~shall be prescribed by the commission and shall conform, in the~~  
10 ~~case of any common carrier subject to federal regulation, as nearly~~  
11 ~~as possible to the form of schedules prescribed by the federal~~  
12 ~~Surface Transportation Board.~~

13 ~~(b) Subdivision (a) is not applicable to network railroad~~  
14 ~~transportation.~~